

**UNITED STATES DEPARTMENT OF COMMERCE****Patent and Trademark Office**Address: COMMISSIONER OF PATENTS AND TRADEMARKS
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/415,540 10/08/99 HAWKINS

P PF-0148-2-DI

HM22/0920

EXAMINER

Legal Department
Incyte Pharmaceuticals, Inc.
3160 Porter Drive
Palo Alto CA 94304

SLOBODYANSKY, E

ART UNIT	PAPER NUMBER
1652	15

DATE MAILED:

09/20/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Advisory Action	Application No. 09/415,540	Applicant(s) Hawkins et al.
	Examiner Elizabeth Slobodyansky	Group Art Unit 1652

THE PERIOD FOR RESPONSE: [check only a) or b)]

- a) expires _____ months from the mailing date of the final rejection.
- b) expires either three months from the mailing date of the final rejection, or on the mailing date of this Advisory Action, whichever is later. In no event, however, will the statutory period for the response expire later than six months from the date of the final rejection.

Any extension of time must be obtained by filing a petition under 37 CFR 1.136(a), the proposed response and the appropriate fee. The date on which the response, the petition, and the fee have been filed is the date of the response and also the date for the purposes of determining the period of extension and the corresponding amount of the fee. Any extension fee pursuant to 37 CFR 1.17 will be calculated from the date of the originally set shortened statutory period for response or as set forth in b) above.

Appellant's Brief is due two months from the date of the Notice of Appeal filed on _____ (or within any period for response set forth above, whichever is later). See 37 CFR 1.191(d) and 37 CFR 1.192(a).

Applicant's response to the final rejection, filed on Sep 5, 2000 has been considered with the following effect, but is NOT deemed to place the application in condition for allowance:

The proposed amendment(s):

- will be entered upon filing of a Notice of Appeal and an Appeal Brief.
- will not be entered because:
 - they raise new issues that would require further consideration and/or search. (See note below).
 - they raise the issue of new matter. (See note below).
 - they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal.
 - they present additional claims without cancelling a corresponding number of finally rejected claims.

NOTE: claim 19 as amended might require new written description rejection under 112/1 for allelic variants and new 112/2 rejection for distinguishing between a human sequence and a sequence from other sources. It might require additional search in view of the change in the scope of the claim.

Applicant's response has overcome the following rejection(s):

the double patenting rejection of claim 19 in view of TD filed Mar 27, 2000.

Newly proposed or amended claims _____ would be allowable if submitted in a separate, timely filed amendment cancelling the non-allowable claims.

The affidavit, exhibit or request for reconsideration has been considered but does NOT place the application in condition for allowance because:

in view of the AF amndment not being entered, claims 18-22 stand rejected as indicated in the Final Office action of 5/31/00.

The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.

For purposes of Appeal, the status of the claims is as follows (see attached written explanation, if any):

Claims allowed: _____

Claims objected to: _____

Claims rejected: 18-22

The proposed drawing correction filed on _____ has has not been approved by the Examiner.

Note the attached Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

Other

E. Slobodyansky
ELIZABETH SLOBODYANSKY
PRIMARY EXAMINER
ART UNIT 1652